IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

Bail Appl..No. 4324 of 2007()

O.R.NO.6/2007 OF PARIYARAM FOREST RANGE

: PETITIONER/ACCUSED

RAJESH, S/O VENUGOPAL,
PULLARKKATTU HOUSE, VYSSERY BHAGAM,
PARIYARAM VILLAGE, MUKUNDAPURAM TALUK,
THRISSUR DIST.

BY ADV. SMT.K.V.BHADRA KUMARI
SMTM.LAKSHMY RAJ

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
RANGE OFFICER, PARIYARAM FOREST RANGE, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4324 of 2007

Dated this the 17th day of July, 2007

ORDER

Application for anticipatory bail. Petitioner is the 1st accused in a crime registered under the provisions of the Wild Life Act. The crux of the allegations against the petitioner is that he trespassed into the forest and shot down a giant squirrel using a gun. He allegedly entrusted the meat of the giant squirrel at his house. Forest officials on receipt of discreet information went to the house of the petitioner and they found the meat of the giant squirrel in the house. The petitioner's father was questioned. His interrogation as well as other investigation revealed the complicity of the petitioner. Accordingly the crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The meat recovered was not that of a giant squirrel at all, it is submitted. In these circumstances, anticipatory bail may be granted to the petitioner, it is urged.

3. The learned Public Prosecutor opposes the application. All indications presently available point to an inference of complicity against the petitioner. The petitioner has to be interrogated. The gun allegedly used for the commission of the offence has to be recovered.

The petitioner, in these circumstances, is not entitled to an order of anticipatory bail. He may not be permitted to arm himself with an order of anticipatory bail at this stage, submits the learned Public Prosecutor .

4. I find merit in that opposition by the learned Public Prosecutor. At this early stage of investigation and with the materials presently available, it is impossible to sail to the conclusion that the meat was not that of a giant squirrel as alleged by the prosecution. At any rate, I am satisfied that there are no circumstances which justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This I am satisfied is a fit case where the petitioner must appear before the Investigating Officer or the learned Magistrate having jurisdiction and then seek bail in the regular and ordinary course.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-